O-Employees State

1952.

File No. Insurance/52

Legal Department

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Subject:—

Opinion under the

Employees' State Insurance

Act, 1948

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Office of the R.L.A.

Employees' State Insurance Act, 1948.
Position G.T.S. Workers.

Government of India have refused to exempt the workshop attached to the Government Transport Service from the operation of the Employees' State Insurance Act, 1948; and in the circumstances the point raised for R.L.A.'s advice is whether the benefits of the Act should be extended to (a) the employees in the G.T.S. Workshop (b) such other mechanical employees attached to the depots and (c) drivers and warners employed in the G.T.S. H.D. considers that having regard to thedefinition of "employee" in the Act, the benefits would extend only to the latter two;; but the R.L.A. is requested to advise.

2. The Employees' State Insurance Act, 1948 has been enacted to provide certain benefits to employees in case of sickness etc. Under Sub-section (4) of section 1, it applies, in the first instance, to all factories other than seasonal factories. The term "employee" is defined in clause (9) of section 2 and it means any person employed for wages in or in connection with the work of a factory or establishment to which the Act applies and-

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to, or connected with the

work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere; or

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

(iii) whose services are temporary lent or let on hire to the principal employer by the person with whom the person whose services are to lent or let on hire has entered into a contract of service;

(a) any member of His Majesty's naval, militar or air forces; or

(b) any person employed on a remuneration which in the aggregate exceeds four hundred rupees a month.

It is clear that this definition that G.T.S. workers who are not employed in the factory or workshop of the Government Transport Service or in connection with any work which is ordinarily part of the work of the factory will not fall

under the purview of the definition of "employee" and will not be covered by the Act. It is also clear that while persons in category (a) will be covered by the Act, persons in category (c) viz. drivers and warmers who do not appear to have anything to do with the workshop will be excluded from its operation. The position of persons in category (b) is, however, not clear; but if they do not fall under clauses (i) and (ii) of section 2(9) of the Act, they will not be entitled to the benefits of the Act.

Sd/. P.T.M.Lad.

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O/ C.

Remembrancer of Legal Affairs.

UR. to H.D. No. 20411/A, dated the 5th December 1952.

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